

REMARKS

Claims 1, 2, 5-7, 9, 10 and 13-14 are pending in this application. Based on the following remarks, reconsideration and allowance of the application is respectfully requested.

Specification Objection

The abstract of the disclosure has been amended to relate to a method of treating aneurysms. As such, Applicants respectfully request withdrawal of the objection to the abstract.

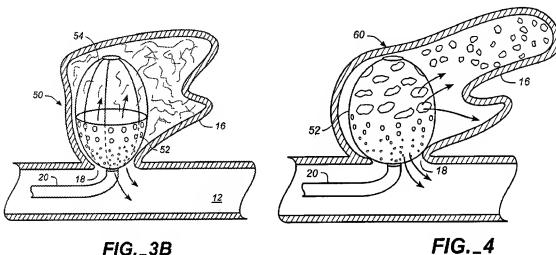
Claim rejections under 35 U.S.C. §102 (e)

Claims 1, 2, 5-7, 9, 10, 13 and 14 stand rejected under 35 U.S.C. §102(e), as being allegedly anticipated by U.S. Patent No. 7,128,073 ("van der Burg"). A claim is anticipated only if each and every limitation as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (MPEP §2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 - Fed. Cir. 1987). Applicants respectfully request reconsideration and withdrawal of this rejection, since van der Burg does not disclose each and every limitation required by these claims.

Independent claim 1 recites a method of occluding an aneurysm, the aneurysm having a neck and a sac, the method comprises delivering a liner into the aneurysm, the liner having a proximal portion and a distal portion, where the distal portion of the liner is more permeable than the proximal portion of the liner, and where the liner is delivered so that the proximal portion of the liner *extends across the aneurysm neck and the distal portion of the liner is positioned within the aneurysm sac*. The method also comprises

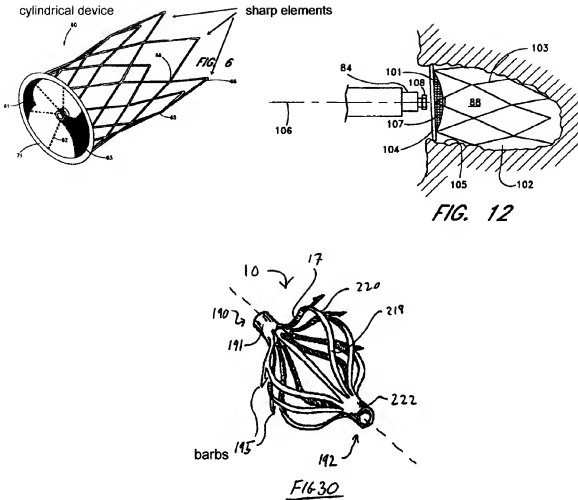
introducing embolics through an opening in the proximal portion of the liner into an interior of the liner, wherein the distal portion of the liner allows *preferential permeation of the embolics from the liner interior into the sac of the aneurysm*.

By way of illustration, see figures 3B and 4 of the above-identified application:



In contrast, no such method of occluding an aneurysm is disclosed or suggested in van der Burg. Instead, van der Burg discloses a method for occlusion of the left atrial appendage (LAA) of the heart by introducing a bulking device that inhibits changes in volume, resists compression of the LAA walls and occludes the opening of the LAA. The bulking device is cylindrical in shape with sharp distal elements 66, see Figs. 6, 11 and 12 below, also a cage device with anchors or barbs 195 that engage the tissue is disclosed, see Figs. 30-35 below. Alternatively, polymeric mass or occlusion coils may be delivered into the LAA (Col.10, line 23 to Col. 11 line 11).

See figures 6, 12 and 30 of van der Burg:



Due to its cylindrical shape and sharp distal elements 66, van der Burg's "liner" 60, as seen above and relied by in the Office Action (reference to Fig. 12 is found in pages 2-4), is not capable to be delivered in an aneurysm without causing significant damage to the aneurysm. The cylindrical shape of the liner 60 is not suited to be delivered into an aneurysm since there is a high risk of migration from the aneurysm into a parent blood vessel that might cause unintended occlusion of the vessel. The sharp distal ends 66 or the barbs 195 could perforate the usually thin walls of the aneurysm sac causing an undesirable bursting or rupture of the aneurysm, subsequent blood loss and even death of the patient. Therefore, the liner of is not capable of performing the

performing the “intended use” of occluding an aneurysm.

Furthermore, independent claim 1 is a method claim. Thus, even if van der Burg device is somehow “capable of performing the intended use” as stated in page 3 of the Office Action (which as discussed above, it is not), there is no express or inherent disclosure in van der Burg of delivering a liner into an aneurysm so that the proximal portion of the liner extends across the aneurysm neck and the distal portion of the liner is positioned within the aneurysm sac. Moreover, van der Burg does not disclose introducing embolics through an opening in the proximal portion of the liner into an interior of the liner, wherein the distal portion of the liner allows preferential permeation of the embolics from the liner interior into the sac of the aneurysm (neither into the LAA), as required by independent claim 1.

Applicants wish to point out that the “intended use” concept is reserved for apparatus claims, not method claims, such as claim 1. “Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device.” (See M.P.E.P. §2112.02) (Emphasis added). The van der Burg’s distal portion of the liner is not capable to be positioned within the aneurysm sac — especially having the sharp elements 66 or the barbs and anchors 195.

For at least these reason, Applicants respectfully submit that independent claim 1, along with claims 2, 5-7, 9, 10, 13 and 14, which depend directly or indirectly from claim 1, are not anticipated by van der Burg, and as such, request withdrawal of the §102 rejection of these claims.

CONCLUSION

For the reasons set forth above, Applicants respectfully submit that the currently pending claims are patentable over the cited prior art. A notice of allowance is respectfully requested.

If there are any questions concerning this amendment and response, please contact the undersigned at the number below.

Respectfully submitted,
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